

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 12986 of United Virginia Bank, Trustees, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 4101.41 to continue to operate a parking lot and for a variance from Sub-paragraph 4101.413 to permit all day commuter parking in an SP-2 District at the premises 1104 - 13th Street, N.W., (Square 247, Lot 840).

HEARING DATE: July 18, 1979

DECISION DATES: August 8, October 3 and November 7, 1979

FINDINGS OF FACT:

1. The subject property is located in an SP-2 zone District at the rear of a gasoline service station located on the northwest corner of 13th and L Streets, N.W., at premises known as 1104 13th Street, N.W.

2. The owner of the subject property is deceased, and United Virginia Bank serves as trustee. The Board therefore waived Section 3.5 of the Supplemental Rules of Practice and Procedure which requires the presence of the owner of the property.

3. The subject lot is presently operating as a parking facility. The last approval for use of the property was contained in BZA Order No. 12046, dated February 3, 1976. The Board granted a continuance of the subject parking lot for a period of two years.

4. On August 8, 1979 the Board GRANTED by a vote of 3-1 (William F. McIntosh, Leonard L. McCants and Charles R. Norris to grant, Chloethiel Woodard Smith opposed) the special exception on the conditions that approval shall be for a period of four years and that the applicant shall comply with all the requirements of Article 74 of the Zoning Regulations. The Board DENIED the variance to permit all day commuter parking.

5. A final order was never issued on the subject application. At the request of the staff the Board at its public meeting of October 3, 1979 reviewed its decision of August 8, 1979. The staff reported to the Board that the Certificate of Occupancy No. B-98260 had expired on February 3, 1978 and that the subject lot was not in existence on October 5, 1978 as required under Paragraph 4101.41 of the Zoning Regulations, the paragraph under which the application was brought. The Board also considered a letter dated September 28, 1979 from the

counsel for the applicant arguing that the application should be granted. The Board requested the staff to determine from the Zoning Regulations Division whether the applicant had been advised that the Certificate of Occupancy was expiring.

6. A review of the records of the Zoning Inspection Branch of the Department of Housing and Community Development disclosed as follows:

- a. By letter of December 12, 1977 the owner was advised that the existing Certificate of Occupancy No. B-98260 would expire on February 3, 1978 and that he should reapply to the Board of Zoning Adjustment.
- b. By letter of April 17, 1978 the present lessee and the applicant were advised that the parking lot was being used without a valid Certificate of Occupancy and that this was in violation of the D.C. Zoning Regulations. They were referred to the BZA.
- c. By letter of June 28, 1978 the applicant was advised that the lot was being used without a valid Certificate of Occupancy and that this was a violation. He was referred to the BZA.
- d. By letter of November 16, 1978 the present lessee was advised that his application for a Certificate of Occupancy was disapproved and that he should apply to the BZA.
- e. By letter of May 8, 1979 the present lessee was advised that he was in violation for operating the subject parking lot. He was advised to apply to the BZA.

7. On May 17, 1979 the subject application was filed with the BZA.

CONCLUSIONS OF LAW:

Based on findings of fact Nos. 5 and 6 the Board concludes that the subject parking lot was not in existence on October 5, 1978 as required under Paragraph 4101.41 of the Zoning Regulations. The Board further concludes that the applicant was advised four times prior to October 5, 1978 that the further approval of the Board was required to continue use of the lot. Accordingly, the Board has no jurisdiction to grant the requested relief to the applicant. Accordingly, it is ORDERED that the prior decision of the Board on August 8, 1979 to grant this application is RESCINDED and the application is hereby DENIED.

VOTE: 3-0 to RESCIND prior Grant of the application (Walter B. Lewis, Charles R. Norris and William F. McIntosh to rescind, Chloethiel Woodard Smith and Leonard L. McCants not present, not voting).

3-0 to DENY the application (Walter B. Lewis, Charles R. Norris and William F. McIntosh to deny, Chloethiel Woodard Smith and Leonard L. McCants not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 7 DEC 1979

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."